

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 1055**  
**93RD GENERAL ASSEMBLY**

---

Reported from the Committee on Governmental Accountability and Fiscal Oversight, March 15, 2006, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

4970S.04C

TERRY L. SPIELER, Secretary.

---

**AN ACT**

To repeal section 105.935, RSMo, and to enact in lieu thereof one new section relating to overtime for state employees.

---

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 105.935, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.935, to read as follows:

105.935. 1. [Any] **This section is applicable to overtime, including holiday and compensatory leave time, earned under state and federal laws. This section is applicable to nonexempt employees under the provisions of the Fair Labor Standards Act who are employed in positions providing direct client care or custody in facilities operating on a twenty-four hour seven-day-a-week basis in the department of corrections, the department of mental health, the division of youth services of the department of social services, and the veterans commission of the department of public safety.**

2. A state employee who has accrued any [overtime] **compensatory time** hours may **request payment for the accumulated compensatory time or** may choose to use those hours as compensatory leave time provided that the leave time is available and agreed upon by both the state employee and his or her supervisor.

[2. A state employee who is a nonexempt employee pursuant to the provisions of the Fair Labor Standards Act shall be eligible for payment of overtime in accordance with subsection 4 of this section. A nonexempt state employee who works on a designated state holiday shall be granted equal

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 compensatory time off duty or shall receive, at his or her choice, the employee's  
20 straight time hourly rate in cash payment. A nonexempt state employee shall be  
21 paid in cash for overtime unless the employee requests compensatory time off at  
22 the applicable overtime rate. As used in this section, the term "state employee"  
23 means any person who is employed by the state and earns a salary or wage in a  
24 position normally requiring the actual performance by him or her of duties on  
25 behalf of the state, but shall not include any employee who is exempt under the  
26 provisions of the Fair Labor Standards Act or any employee of the general  
27 assembly.]

28 3. Beginning on January 1, 2006, and annually thereafter each  
29 department shall pay all nonexempt state employees in full for any overtime  
30 hours accrued during the previous calendar year which have not already been  
31 paid or used in the form of compensatory leave time. All nonexempt state  
32 employees shall have the option of retaining up to a total of eighty compensatory  
33 time hours.

34 4. [The provisions of subsection 2 of this section shall only apply to  
35 nonexempt state employees who are otherwise eligible for compensatory time  
36 under the Fair Labor Standards Act, excluding employees of the general  
37 assembly. Any nonexempt state] **An** employee requesting cash payment for  
38 **[overtime worked] compensatory time earned** shall notify such employee's  
39 department in writing of such decision and state the number of hours, no less  
40 than twenty, for which payment is desired. The department shall pay the  
41 employee within the calendar month following the month in which a valid request  
42 is made. Nothing in this section shall be construed as creating a new  
43 compensatory benefit for state employees.

44 5. Each department shall, by November first of each year, notify the  
45 commissioner of administration, the house budget committee chair, and the  
46 senate appropriations committee chair of the amount of overtime paid in the  
47 previous fiscal year and an estimate of overtime to be paid in the current fiscal  
48 year. The fiscal year estimate for overtime pay to be paid by each department  
49 shall be designated as a separate line item in the appropriations bill for that  
50 department. The provisions of this subsection shall become effective July 1, 2005.

51 6. Each state department shall report quarterly to the house of  
52 representatives budget committee chair, the senate appropriations committee  
53 chair, and the commissioner of administration the cumulative number of accrued  
54 overtime hours for department employees, the dollar equivalent of such overtime

55 hours, the number of authorized full-time equivalent positions and vacant  
56 positions, the amount of funds for any vacant positions which will be used to pay  
57 overtime compensation for employees with full-time equivalent positions, and the  
58 current balance in the department's personal service fund.

59       [7. This section is applicable to overtime earned under the Fair Labor  
60 Standards Act. This section is applicable to employees who are employed in  
61 nonexempt positions providing direct client care or custody in facilities operating  
62 on a twenty-four-hour seven-day-a-week basis in the department of corrections,  
63 the department of mental health, the division of youth services of the department  
64 of social services, and the veterans commission of the department of public  
65 safety.]

✓

Bill

Copy